

REMARKS

Claims 11-30 and 34-51 were presented for examination. In an Office Action dated August 20, 2008, claims 11-30 and 34-51 were rejected. Claims 11, 14, 16-22, 28-29, 34, 37-40, 42-47, and 49-51 are amended herein to more distinctly claim Applicants' invention.

Applicants thank the Examiner for examination of the claims pending in this application and address the Examiner's comments below. Based on the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and withdraw them.

Response to Rejection Under 35 USC 102(e)

The Examiner rejected claims 11-30, 34-51 under 35 USC § 102(e) as allegedly being anticipated by U.S. Patent Publication No. 2002/0052770 to Podrazhansky et al. ("Podrazhansky"). This rejection is traversed.

Claim 11 recites a scheduling system for generating a schedule of start times for plurality of tasks for a project comprising "a load leveler subsystem configured ... to generate a proposed schedule of start times for the plurality of tasks responsive to fluctuations of resources utilized to perform the plurality of tasks, wherein the plurality of tasks are steps in a workflow to complete the project" and "a cost minimizer ... for modifying the proposed schedule of start times for the plurality of tasks responsive to resource fluctuations and its associated cost." These features of the claimed invention are beneficial because generating and modifying a proposed schedule of start times for a plurality of tasks responsive to resource fluctuations results in increased efficiency and lower

cost compared to conventional scheduling systems. See, Applicants' Specification, paragraphs 9-11.

Podrazhansky fails to disclose or suggest at least the features of generating and modifying “a proposed schedule of start times for the plurality of tasks, wherein the plurality of tasks are steps in the workflow to complete the project.” Podrazhansky is not concerned with scheduling start times for a plurality of tasks for a project. Rather, Podrazhansky is directed to solving a different problem: given a forecasted workload volume, what staffing is needed and how much will it cost? *See* Podrazhansky, FIG. 1, paragraphs 32, and 53-54. Thus, Podrazhansky's derived “schedule” is a schedule of the staffing requirement to satisfy the forecasted workload. Paragraph 32. As such, Podrazhansky does not disclose or suggest generating or modifying a proposed schedule of start times of tasks, as recited in claim 11. Even if the act of scheduling staffing in Podrazhansky is interpreted to be one task that needs to be accomplished for project management as suggested by the Examiner in the Advisory Action dated January 28, 2009, there is no disclosure or suggestion of generating or modifying a proposed schedule including a start time for this task. Moreover, Podrazhansky also does not disclose or suggest a proposed schedule of start times for a plurality of tasks that “are steps in the workflow to complete the project.” Therefore, for at least these reasons, the rejection of claim 11 under 35 USC § 102(b) based on Podrazhansky is improper and should be withdrawn.

The remainder of the independent claims, claims 17, 34, 37, 43, and 50, variously recite generating or modifying a proposed schedule of start times for a plurality of tasks for a project, wherein the plurality of tasks are steps in a workflow to complete the project. Claims 37, 43, 50 further specify that the proposed schedule of start times for tasks is for

constructing a ship, which is one example of a project. Therefore, all arguments advanced above with respect to claim 11 apply equally to claims 17, 34, 37, 43, and 50, as well as the claims that depend from them. In addition, claims 12-30 and 34-51 recite other patentable features which further distinguish them from the prior art of record.

For example, claims 28 and 49 recite “identifying an admissible window in the proposed schedule of start times for the plurality of tasks for each task of the plurality of tasks and iteratively placing each task of the plurality of tasks within the proposed schedule of start times for the plurality of tasks responsive to the admissible window, a priority of the task, and a cost of at least part of the proposed schedule of start times for the plurality of tasks having the task placed therein.” Podrazhansky does not disclose or suggest iteratively placing each task of a plurality of tasks responsive to an admissible window, a priority of the task, and a cost of at least part of the proposed schedule. Podrazhansky discloses creating a staffing schedule responsive to cost (paragraph 53-54), but does not disclose or suggest the specific additional features recited in claim 28.

As another example, claim 29 recites “examining one of the plurality of tasks to estimate the cost associated with the proposed schedule of start times for the plurality of tasks responsive to moving the task within a window describing allowable locations of the task in the schedule of start times for the plurality of tasks.” As discussed above, Podrazhansky discloses creating a staffing schedule responsive to cost (paragraph 53-54). However, Podrazhansky does not disclose or suggest estimating the cost associated with a proposed schedule of start times for a plurality of tasks responsive to moving a task within a window describing allowable locations of the task in the schedule.

As yet another example, claims 38, 44, and 51 all recite “wherein the plurality of tasks for constructing the ship comprise welding, painting, electrical work, or any combination thereof.” Podrazhansky does not disclose or suggest any of the specific tasks of welding, painting, or electrical work recited as tasks for constructing a ship.

Applicants submit that claims 12-30 and 34-51 are patentable over the prior art of record for the reasons detailed with respect to the independent claims, in addition to the further patentable limitations recited therein.

Conclusion

In sum, Applicants respectfully submit that all claims now pending are patentable over the cited references for at least the reasons given above, while not necessarily conceding any contention not specifically addressed. Applicants request reconsideration of the basis for the rejections of these claims and request allowance of them.

If the Examiner believes that for any reason direct contact with Applicants’ attorney would help advance the prosecution of this case, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully Submitted,
Andrew B. Baker, et al.

Date: February 19, 2009

By: /Robin W. Reasoner/

Robin W. Reasoner, Attorney of Record
Registration No. 58,257
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Phone: (415) 875-2327
Fax: (650) 938-5200
Email: rreasoner@fenwick.com